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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,915	10/13/2005	Minoru Kinaka	10873.1539USWO	6967
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EXAMINER CHIO, TAT CHH				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/552,915

Applicant(s)

KINAKA, MINORU

Examiner

TAT CHIO

Art Unit

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2009.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-4 and 6 is/are rejected.
7) ☒ Claim(s) 5 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/ISD/CC)
Paper No(s)/Mail Date 5/18/2009 and 8/3/2009
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 7/17/2009 have been fully considered but they are not persuasive.

Applicant argues that the combination of Miura and Kikuchi does not teach the control part instructs the recording part to temporarily stop recording onto the digital recording medium while allowing the reproducing part to continue the reproducing operation.

In response, the examiner respectfully disagrees. Kikuchi teaches displaying the message "Disc is not successfully exchanged Recoding is stopped" shown in Fig. 60 onto the TV shown in Fig. 58. Fig 58 is showing a TV program from channel 1. When the recording is stopped, the TV will still be playing back the TV program from channel 1. Therefore, the recording operation is stopped while the reproducing operation is allowed to be continued.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miura et al. (US 2002/0183873 A1) in view of Kikuchi et al. (US 6,574,422 B1).

Consider claim 1, Miura teaches an information recording and reproducing apparatus including a reproducing part for reproducing a audio signal from an analog recording medium, and a recording part for recording and audio signal onto a digital recording medium, comprising: a control signal detecting part for detecting a control signal recorded on the analog recording medium together with the audio signal ([0123]); and a control part for controlling operations of the reproducing part, the recording part, and the control signal detecting part (39 of Fig. 3), wherein, when a dubbing instruction is input, the control part instructs the recording part to start a dubbing operation of recording the video and audio signal reproduced by the reproducing part onto the digital recording medium (Fig. 3 and Fig. 4), and during the dubbing operation, when the control signal detecting part detects a non-recorded region where the control signal is not recorded on the analog recording medium ([0061] and [0062]). However, the information recording and reproducing apparatus that Miura taught only deals with audio. Miura does not explicitly teach the information recording and reproducing apparatus that has the operation for dubbing video, and the control part instructs the recording part to temporarily stop recording onto the digital recording medium while allowing the reproducing part to continue the reproducing operation.

Kikuchi teaches an information recording and reproducing apparatus that has the operation for dubbing video and audio (col. 54, lines 5-15), and the control part instructs the recording part to temporarily stop recording onto the digital recording medium while allowing the reproducing part to continue the reproducing operation (Fig. 58 and Fig. 60). Therefore, it would have been obvious to one of ordinary skill in the art at the time

the invention was made to incorporate the technique of dubbing video taught by Kikuchi into the device taught by Miura to provide user a greater degree of freedom in dubbing and editing.

Consider claim 2, Miura teaches the information recording and reproducing apparatus, wherein, during the dubbing operation, when the control signal detecting part detects the control signal again on the analog recording medium after the recording part temporarily stops recording onto the digital recording medium, the control part instructs the recording part to resume recording onto the digital recording medium ([0061], [0062], and [0123], when the device detects error, it stops the dubbing process. The device tries the dubbing operation again after it stops. When it tries again, it detects the control signal of the data again).

Consider claim 3, Kikuchi teaches the information recording and reproducing apparatus, further comprising a free space obtaining part for obtaining a free space of the digital recording medium (Fig. 42), wherein, when a dubbing instruction is input, the control part calculates a recording time of a video and audio signal of the analog recording medium, based on a control signal detected by the control signal detecting part from the analog recording medium, determines a bit rate during recording of the video and audio signal by the recording part so that all the video and audio signal corresponding to the calculated time is recorded in the free space of the digital recording medium obtained by the free space obtaining part, and starts the dubbing operation in accordance with the bit rate (col. 54, lines 5-15, Fig. 42-Fig. 45).

Consider claims 6, Kikuchi teaches the information recording and reproducing apparatus, further comprising a user interface, wherein, in a case where a recordable time when information is recorded at a lowest bit rate in the free space of the digital recording medium is shorter than a recording time of the video and audio signal recorded on the analog recording medium, the control part performs at least one of warning display to the user interface and suspension of the dubbing operation (Fig. 47).

3. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miura et al. (US 2002/0183873 A1) in view of Kikuchi et al. (US 6,574,422 B1) as applied to claim 3 above, and further in view of Kikuchi et al. (5,870,523).

Consider claim 4, Miura and Kikuchi teach all the limitations in claim 3 but does not explicitly teach the information recording and reproducing apparatus, using a tape-shaped medium as the analog recording medium, comprising a control head for reading a control signal from the tape-shaped medium, wherein, when a dubbing instruction is input, the control part first-forwards the tape-shaped medium to a trailing edge, and thereafter, while the tape-shaped medium is rewound to a leading edge, the control head obtains a control signal recorded on the tape-shaped medium.

Kikuchi (5,870,523) teaches the information recording and reproducing apparatus, using a tape-shaped medium as the analog recording medium, comprising a control head for reading a control signal from the tape-shaped medium, wherein, when a dubbing instruction is input, the control part first-forwards the tape-shaped medium to a trailing edge, and thereafter, while the tape-shaped medium is rewound to a leading edge, the control head obtains a control signal recorded on the tape-shaped medium

(claim 21). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the technique of obtaining signal while undergoing rewinding to enhance the efficiency of the apparatus.

Allowable Subject Matter

4. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAT CHIO whose telephone number is (571)272-9563. The examiner can normally be reached on Monday - Thursday 9:00 AM-5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Q. Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. C. C./
Examiner, Art Unit 2621

/Thai Tran/
Supervisory Patent Examiner, Art Unit 2621